

GOVERNMENT OF TELANGANA
ABSTRACT

Tribal Welfare Department - Khammam District - Revision Petition filed by Sri Yaram Subba Reddy S/o Koti Reddy R/o Morampally Banjar(v) Burgampad (M), erstwhile Khammam District against the Orders of the Agent to Government and District Collector, Khammam District in C.M.A No: 19/2002, dated: 28-11-2003 - Rejected - Orders - Issued.

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No. 42

Dated: 04-10-2018,
Read the following:-

- 1) Revision Petition filed by Sri Yaram Subba Reddy S/o Koti Reddy R/o Morampally Banjar(v) Burgampad (M), Erstwhile Khammam District, Dt: 22-06-2007.
- 2) High Court Orders dt 08.06.2007 in WP No. 6633/2004.
- 3) Govt.Memo.No.4246/TW.LTR-2/2007, dated 10.7.2007.
- 4) From the Agent to Government & District Collector, Khammam District, Letter Rc. No.F2/CMA/19/2002 (WP 6633/2004), dated 13.6.2008.

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ORDER

In the reference 1st read above, Sri Yaram Subba Reddy S/o Koti Reddy, R/o Morampally Banjar(v) Burgampad (M), erstwhile Khammam District has filed Revision Petition before the Government aggrieved by the orders of the Agent to Government, Khammam District in C.M.A No: 19/2002, dated: 28-11-2003 in respect of land to an extent of Acres 4.00 of land in Sy.No.431/1 of Morampalli Banjar (v) of Burgampad (M), Erstwhile Khammam District.

2. In the ref. 2nd read above, the Hon'ble High Court at Hyderabad has admitted the W.P.No.6633/04 dated 08.06.2007 filed by Sri Yaram Subba Reddy S/o Koti Reddy, R/o Morampally Banjar(v) Burgampad (M), erstwhile Khammam District and issued status-quo orders with reference to the possession of the property to an extent of Acs. 3.00 in Sy.No. 431/1 of Morampalli Banjar(V) Burgampad (M), erstwhile Khammam District.

3. In the reference 3rd read above, the Agent to Government & District Collector, Erstwhile Khammam District and the Project Officer & Additional Agent to Government, Bhadrachalam were requested to furnish Para Wise Remarks and connected case records and in the reference 4th read above the Agent to Government and District Collector, Khammam has furnished Para Wise Remarks and connected case records.

4. The Main grounds of the case are as follows:

1. The Agency Divisional Officer passed the orders without giving any notice and opportunity to the Petitioner. The order is violative of principles of natural justice.
2. The orders passed without giving opportunity at the primary stage shall not cure the defect and all orders are liable to be set aside. (AIR 1980 A.P. 100).
3. The Agency Divisional Officer was not the person designated by the Government as per section 2(C). As such the orders passed by the Agency Divisional Officer is illegal and without jurisdiction.
4. The authorities should have seen that the patta pass book and title deeds were issued to the petitioner after conducting enquiry and also collecting stamp duty and registration charges under the Record Of Rights Act.
5. The Agent to Government passed orders without considering the contentions raised by the petitioner. And the orders are arbitrary and illegal.

6. The Agent to Government observed the sale deed is not a registered one and not admissible. The full bench of High court considered the matter in detail and passed orders the authorities under the Regulation has no jurisdiction in respect of the violation of the Transfer of Property Act, Registration Act, etc. (1981 (2) APLJ pg 260)
7. The other reasons given by the authorities in treating the transfer of the land in contravention provisions of the Regulation are not sound and tenable.

5. The remarks of the Agent to Government and District Collector, Khammam on the Revision Petition are as under:

- The orders passed by the lower authorities are contrary to law and facts of the case. It is submitted that in the order of the Lower Court it is held that despite notice the Revision Petitioner is absent and not even submitted any reply to the notice issued by the Lower authority. Hence, it was construed that there is no documentary evidence with him to prove his title over the land. According to the recorded evidence put fourth before the Lower Court it was held proved that, the transfer of immovable property situated in schedule area of Non-Tribal was made to another Non-Tribal in contravention of Sub-section(1) of section (3) as laid down in APSALTR 1959 read with 1/1970 after the enforcement of the Regulation and hence it is null and void, Accordingly ordered ejection.
- The contention of the Revision Petitioner is that he was issued Pattadar Pass Book and Titles deeds after collecting requisite stamp duty and Registration fee respectively, the appellant was also averred that, the Lower Court already initiated Land Transfer Regulation proceedings and passed orders on 31-03-1994 and initiating proceedings under Land Transfer Regulation and passing orders again on 17-10-2000 is not maintainable and the rule of resjudicata applies. After verification of records by the Agent to Government in the appeal it was held that, the Xerox copy which was filed by the appellant was not taken into consideration, as the Xerox copy cannot be admitted as an evidence in the absence of original document. Further the appellant failed to file Land Revenue receipts for the lands said to be held by him at least for the crucial period of Regulation came into force, and not even filed the pahani extracts showing the recorded entries having his possession over the land in crucial Period over the land.
- It is further held that under the provision of Rule 9(1) (a) (iv) (6) Record Of Rights Act it is clear that, the Land Transfer Regulation Act. Supersedes the Record Of Rights Act. The Tahsildar without observing the valid title and basing on sada sale deed collected requisite fee and issued Pattadar Pass Book and Title Deeds erroneously. Section 54 of TP Act 1882 defines that in case of tangible immovable property of the value of Rs. 100/- and upwards and in case of reversion of other tangible thing can be made only by a Registered instrument. It is also clear from the case of Bangaru Rama Tulasamma V/s Yada Mastan Reddy and others the Hon'ble High Court, AP, Hyderabad observed in CRP.NO.1087/96 dated:10-08-1998 that Sada sale deed is not duly stamped and Registered u/s 17(b) of Registration Act cannot be admitted as an evidence." Since the Revision Petitioner failed to establish his legal right and title over the disputed land, the Agent to Government has rightly dismissed the appeal on 28-11-2003 in CMA No.19/2002. Therefore the contentions raised by the Revision Petitioner in these Paras need no consideration and are baseless.
- It is not correct to say that, the Agency Divisional Officer was not the person designated by the Government as per Section 2(c) as such the order passed by the Agency Divisional Officer is illegal and without jurisdiction. The APSALTR Act clearly specifies under Section 2(c) that Agency Divisional Officer means the person designated by the state Government as Agency Divisional Officer for the purpose of this regulation. Pursuant to the above the Agent to Government has

issued orders authorizing all the Revenue Divisional Officer working in Scheduled Area delegating powers to exercise as Agency Divisional Officer's under the Act in respect of the Area notified vide Agent Divisional Officers under the Act in respect of the Area notified vide Agent to Government, Khammam proceedings No.C1(M) 5026/85, dated:07-11-1985, The Revenue Divisional Officer, Khammam, Kothagudem, Palvoncha, Bhadrachalam and Special Deputy Collector (TW) Palvoncha, Project Officer, ITDA, Palvoncha and Tahsildar's and Special Deputy Tahsildar working in Agency Tracks. Therefore this contention raised in this para is baseless.

- Under section 5 of the Record of Rights Act and read with rule 9(1)(a)(iv)(6) the Land Transfer Regulation Act is always having over riding effect over the Record of Rights Act. Therefore the issuance of Pattadar Pass Book & Title Deeds by the concerned authority liable to be cancelled in case the transaction in schedule area is taken place in contravention of Land Transfer Regulation provisions. Therefore this ground is not maintainable.
- The Agent to Government, Khammam has rightly passed orders duly considering all aspects under the Land Transfer Regulation Act that were raised in the appeal petition. It is very clear from the Lower Court and appellate authority the Revision Petitioner has failed to establish his legal title over the suit schedule land. He also failed to file corroborative evidences such as Land Revenue receipts and Pahani extracts showing his name either in pattadar column or occupant's column at least for the crucial period of Land Transfer Regulation came into force, to Substantiate his bonafide possession over the suit land. When the transfer of land it self is in contravention of Land Transfer Regulation provisions the possession held over by the Revision Petitioner is void ab-initio.
- Under the above circumstances it is prayed that, the Additional Agent to Government, Bhadrachalam has prayed the Hon'ble Government to dismiss the Revision Petition in the interest of Justice.

6. Government after conducting hearings and after careful examination of the Revision Petition and as verified from the documents produced before the authority as well as before the Agent to Government and District Collector, Khammam, it is observed that;

- The Revision Petition is filed against the order of the Agent to Government, Khammam District in C.M.A No: 19/2002,dated: 28-11-2003 . Revision Petitioner claims that he purchased the land to an extent of Ac 4-00 in Sy No. 431/1 of Morampally Banjar (V), from Sri Syed Asar on 12.04.1968 under sada sale deed and that he got pattadar pass book for the said land under Record Of Rights in the year 2000 and hence he is owner of the land and challenged the orders of Agent to Government, Khammam evicting him from the land in CMA.No.19/2002 Dt 28.11.2003.
- Accordingly Revision Petition he purchased the land in 1968 through Sada Sale deed. If he has really purchased it in 1968 he should have got it through Regd. Sale deed. Further he claim that he got Pattadar Pass book in 2000 under Record Of Rights is also not valid. Since Record of Rights cannot override the Land Transfer Regulation. Hence the pattadar pass book issued is against to Land Transfer Regulation.

7. Government after careful examination of the matter hereby rejects the Revision Petition filed by Sri Yaram Subba Reddy S/o Koti Reddy R/o Morampally Banjar(v) Burgampad (M) Erstwhile Khammam District and hereby upholds the orders of the Agent to Government, Khammam in C.M.A No: 19/2002,dated: 28-11-2003 in respect of land to an extent of Acres 4.00 of land in Sy.No.431/1 of Morampalli Banjar (v) of Burgampad (M), Erstwhile Khammam District.

8. The Agent to Government & District Collector, Erstwhile Khammam District and the Project Officer, ITDA, Bhadrachalam, Bhadradi Kothagudem District shall take necessary further action accordingly. The original case records received in the reference 4th read above are returned herewith to the Agent to Government & District Collector, Erstwhile Khammam District.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

BENHUR MAHESH DUTT EKKA,
SECRETARY TO GOVERNMENT

To

Sri Yaram Subba Reddy S/o Koti Reddy R/o Morampally Banjar(v)
Burgampad (M) Erstwhile Khammam District now Bhadradi Kothagudem District.

Sri Syed Asrar S/o Syed Jaharul Haq
C/o Sri Habeen Hamed Bafaqi S/o Habeeb Ahmed Bafaqi
R/o Flat No.206, Kanchan Junga Complex,
King Koti Road, Gunfoundry, Hyderabad - 500 001.

The Agent to Government and District Collector,
Erstwhile Khammam District (w.e.)

The Project Officer, ITDA and Additional Agent to Government,
Bhadrachalam, Bhadradi Kothagudem District.

Copy to :

The District Collector, Bhadradi Kothagudem District.

The Special Deputy Collector(TW), Bhadrachalam, Bhadradi Kothagudem District.
for information and necessary action.

The Tahsildar, Burgampad, Bhadradi Kothagudem District.

Sri S.Ramana Reddy, Advocate,
P.S to M(TW)/P.S. to Secretary(TW)
SF/SC

// FORWARDED:: BY ORDER //

SECTION OFFICER